

### **REMARKS**

Claims 1-12 are currently pending in this application. It is gratefully acknowledged that the Examiner has found allowable subject matter in Claims 2, 3, 7, 8, and 10-12.

In the Office Action, the Examiner has rejected Claims 1, 4-6, and 9 under 35 U.S.C. §103(a) as being unpatentable over *Rune et al.* (U.S. 2002/0025815), which has issued as U.S. Patent No. 6,829,428, in view of *Wallentin et al.* (U.S. 6,594,238). More specifically, in rejecting independent Claims 1, 4, and 9, the Examiner asserts that *Rune* teaches all the recitations of these claims, except for using the bit rate information, which is allegedly taught in *Wallentin*.

Regarding independent Claims 1, 4 and 9, it is respectfully submitted that the claims of the present application relate to a process that is implemented after the “Request” step 3-3 of FIG. 3 of *Rune et al.* Therefore, *Rune et al.* cannot, by definition, show any of the steps of the claims of the present application. Based on at least the foregoing, withdrawal of the rejection of independent Claims 1, 4 and 9 is respectfully requested.

Independent Claims 1, 4, and 9 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2, 3, 5-8 and 10-12, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2, 3, 5-8 and 10-12 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-12, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written over the typed name.

Paul J. Farrell  
Reg. No. 33,494  
Attorney for Applicant

DILWORTH & BARRESE  
333 Earle Ovington Blvd.  
Uniondale, New York 11553  
Tel: (516) 228-8484  
Fax: (516) 228-8516